

**SENATE . . . . . No. 1270****The Commonwealth of Massachusetts**

PRESENTED BY:

**Ms. Fargo**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act establishing the Commonwealth Lung Cancer Early Detection and Treatment Research Fund.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ms. Fargo	Third Middlesex
Kathi-Anne Reinstein	16th Suffolk
Richard T. Moore	Worcester and Norfolk
Peter v. Kocot	1st Hampshire
Martha M. Walz	8th Suffolk
Susan C. Tucker	Second Essex and Middlesex
Frank I. Smizik	15th Norfolk
John A. Hart, Jr.	First Suffolk
Karen E. Spilka	Second Middlesex and Norfolk
Jennifer M. Callahan	18th Worcester
Thomas M. Stanley	9th Middlesex
Geraldo Alicea	6th Worcester
William Smitty Pignatelli	4th Berkshire
Angelo J. Puppola, Jr.	12th Hampden
Kay Khan	11th Middlesex
William Lantigua	16th Essex
Paul J. Donato	35th Middlesex
Stephen J. Buoniconti	Hampden

Robert F. Fennell	10th Essex
Thomas P. Kennedy	Second Plymouth and Bristol
Anthony D. Galluccio	Middlesex, Suffolk and Essex
Marc R. Pacheco	First Plymouth and Bristol
Barbara A. L'Italien	18th Essex
Charles A. Murphy	21st Middlesex
Jay R. Kaufman	15th Middlesex
Denis E. Guyer	2nd Berkshire
Scott P. Brown	Norfolk, Bristol and Middlesex
Robert L. Hedlund	Plymouth and Norfolk
James E. Timilty	Bristol and Norfolk
Thomas P. Conroy	13th Middlesex
Michael A. Costello	1st Essex
William G. Greene, Jr.	22nd Middlesex
Denise Provost	27th Middlesex
Tom Sannicandro	7th Middlesex
Steven A. Baddour	First Essex
Mark C. Montigny	Second Bristol and Plymouth
Alice Hanlon Peisch	14th Norfolk
Richard J. Ross	9th Norfolk
Joan M. Menard	First Bristol and Plymouth
Christopher J. Donelan	2nd Franklin
Benjamin Swan	11th Hampden
Michael R. Knapik	Second Hampden and Hampshire
Harriette L. Chandler	First Worcester
Brian A. Joyce	Norfolk, Bristol and Plymouth
Robert J. Nyman	5th Plymouth
Michael F. Rush	10th Suffolk
Patricia D. Jehlen	Second Middlesex
Lung Cancer Alliance - Massachusetts	
Bruce E. Tarr	First Essex and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S02454 OF 2007-2008.]

## **The Commonwealth of Massachusetts**

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**In the Year Two Thousand and Nine**

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### **AN ACT ESTABLISHING THE COMMONWEALTH LUNG CANCER EARLY DETECTION AND TREATMENT RESEARCH FUND.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority  
of the same, as follows:*

- 1   SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35FF  
2   the following section:-
- 3   Section 35GG. There shall be established and set up on the books of the commonwealth a  
4   separate fund as a trust to be known as the Commonwealth Lung Cancer Early Detection and  
5   Treatment Research Trust Fund, hereinafter referred to as the “trust fund”. The trust fund shall  
6   consist of revenues to be credited in accordance with the provisions of subsection (c) of section  
7   7C of chapter 64C; any appropriation or authorization of the general court; and any other  
8   amounts to be explicitly credited to the trust fund from any source, to include any public or  
9   private, donations, grants, repayments and other receipts.

10           The state treasurer shall receive and deposit, in accordance with state law, all monies  
11   credited to the trust fund in financial institutions as to provide the highest interest rate consistent  
12   with the safety of the monies so deposited and to allow the immediate withdrawal of such monies  
13   without penalty. All accrued investment income shall be credited to the trust fund.

14           Amounts credited to the trust fund shall be made available, without appropriation, to the  
15   department of public health solely for the following purposes:

16   (1)     To establish screening programs within a high risk population for the early detection of  
17   lung cancer through the use of computed tomography (CT) scanning based on the International  
18   Early Lung Cancer Action Program (I-ELCAP) or other methods and practices that may be  
19   established by the commissioner of the department of public health, hereinafter referred to as the  
20   “commissioner”, provided that: (i) at least 25 per cent of all individuals screened under the  
21   program shall be from racial or ethnic minority populations; and (ii) at least 50 per cent of all  
22   individuals screened under the program shall have a family income that does not exceed 150 per  
23   cent of federal poverty guidelines; and (iii) the cost for program screening or diagnostic services  
24   shall not be assessed to an individual that has a family income that does not exceed 150 per cent  
25   of the federal poverty income guidelines; and (iv) only licensed hospitals or other licensed  
26   medical facilities in the commonwealth shall provide program screening or diagnostic medical  
27   services to participating individuals; and (v) adequate counsel and referral to the medical  
28   treatment shall be provided to participating individuals with detected lung cancers.

29   (2) To promote the development of early detection diagnostic tools and screening  
30   technologies for lung cancer.

(3) To promote the development of chemoprevention and targeted therapies for lung cancer.

(4) To support research into the disparities in lung cancer incidence and mortality rates.

(5) To support research to discover a cure for lung cancer.

Expenditure of trust fund monies shall be at the discretion of the commissioner who shall be authorized to administer the monies only for the purposes of this section; provided that, in a fiscal year no greater than 3 ½ per cent of the amounts credited to the trust fund, inclusive of any costs to be recovered for such period under section 5D of chapter 29, may be expended during such fiscal year for the administration of the trust fund; and provided further, any other expenditures from the trust fund shall be made only to public, quasi-public, or non-public: (i) hospitals, clinics, clinical laboratories and other medical facilities licensed by the department of public health, and (ii) universities, colleges and medical schools authorized to confer degrees that are located in the commonwealth. No expenditure or obligation for expenditure from the trust fund shall be made to cause the trust fund to become deficient at any time during a fiscal year.

To encourage recipients to seek additional funding from other sources, any expenditure to a recipient from the trust fund shall be made as a matching grant unless such requirement is waived or modified by the commissioner.

There shall be an advisory committee that shall make recommendations to the commissioner about the expenditure of trust fund monies. The committee shall be comprised of the commissioner or his representative, who shall serve as the chairman and 8 voluntary and

uncompensated members, 1 representative from each of the following organizations: the Lung Cancer Alliance, Massachusetts chapter; the Massachusetts Medical Society; the Massachusetts Hospital Association; the Massachusetts League of Community Health Centers; the Oncology Nursing Society; the American Cancer Society, Massachusetts chapter; the American Lung Association; and the Massachusetts Public Health Association. The commissioner may fill any member vacancies to the committee. A member or his representative, who is not otherwise a state employee, shall not be in violation of sections 4 and 6 of chapter 268A with respect to a particular matter before the committee, where such member or representative, his immediate family or partner has a financial interest or other conflict as proscribed by said sections provided, such member or representative, acting on behalf of the member or himself, first discloses such interest or other conflict to the chairman, and provided further, the chairman approves before his further participation on such matter. Any such disclosure and approval shall be recorded in the minutes of the committee meeting.

To further increase funding to accomplish the purposes of this section, the commissioner shall be authorized to apply to the federal government for any grants, reimbursements and other funding available to the department of public health that is specifically related to such stated purposes. Notwithstanding any other provision of this section to the contrary, all federal monies received shall be deposited into the General Federal Grants Fund in accordance with section 2C of chapter 29. The application for, and receipt and expenditure of, such monies shall be subject to section 6B of chapter 29; except, expenditure of such monies in the fiscal year such monies are received shall not require further appropriation by the general court and no costs other than for fringe benefits may be charged pursuant to subsection (f) of said section. Consistent with

federal law and regulations, the commissioner shall be authorized to expend any available federal monies for the purposes that such funding was received.

By the first Wednesday in November of each year, the commissioner shall prepare and submit to the secretary of administration and finance and to the chairmen of the joint committee of public health, a complete report for the period of the prior fiscal year of: (i) the financial condition of the trust fund with a list of the receipts, income and expenditures from the trust fund including the disposition of monies for each program, research study funded and the purpose and amount of administrative expenditures; (ii) a summary of federal grants, reimbursements or other funding related to the purposes of this section that was received, expended or application made for during such period; and (iii) a summary of the outcomes and findings reported to the department of public health as a result of programs and research studies funded by the trust fund or from expenditure of federal monies as related to the purposes of this section.

The commissioner may make agreements with others, and may enact regulations to establish standards, procedures and guidelines related to the expenditure of monies under this section.

SECTION 2. Section 7C of chapter 64C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Notwithstanding the provisions of section 28, all revenues received pursuant to this section, together with any penalties, forfeitures, interests, and costs of suits and fines connected therewith, less all amounts refunded or abated in connection therewith, as determined by the

94 commissioner of revenue according to his best information and belief, shall be credited as  
95 follows:

96 (1) An amount equal to 10 million dollars for which an excise and other monies have been  
97 collected under this section and not refunded or abated, during each fiscal year, shall first be  
98 credited to the Commonwealth Lung Cancer Early Detection and Treatment Research Trust Fund  
99 established pursuant to section 35FF of chapter 10. Except, in the fiscal year of the  
100 establishment of the fund, the amount to be first credited under this clause shall equal 3 million  
101 dollars for which an excise and other monies have been collected and not refunded or abated and,  
102 in the next following fiscal year, shall equal 6 million dollars for which an excise and other  
103 monies have been collected and not refunded or abated.

104 (2) The remaining funds, after first crediting the amounts required under clause (1), shall be  
105 credited to the General Fund.